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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,839	09/07/2006	Erwin Eckl	10016.508	4676

7590  
Smith Law Office  
440 Science Drive  
Suite 302  
Madison, WI 53711

08/22/2007

EXAMINER
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JONES, DAVID B

ART UNIT	PAPER NUMBER
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3725

MAIL DATE	DELIVERY MODE
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08/22/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/568,839

Applicant(s)

ECKL ET AL.

Examiner

David B. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

1. The specification appears to be a product of translation from a foreign document and as such has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
2. The abstract of the disclosure is objected to because it should be set forth on a separate sheet. Correction is required. See MPEP § 608.01(b).
3. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The recitation in claim 1, "at least one elastic section provided between the first end region wherein the second end region is, designed in such a way that the following relationship applies" is indefinite and unclear in nature. Comparing the claim to the other two independent claims (19 and 24) the elastic section lies between the first and second end regions and the relationship described applies to the elastic region and not the second end region. In claim 3, it would appear that - one- - should be placed between "least" and "section". In claims 2-19 it is not clear to what the "one section" refers; does it refer to the "elastic section"? In claim 6, "the wave troughs" and "the wave crests" lack antecedent basis. In claims 7 and 8, "the wave crests and/or wave troughs", "the waves", and "the flanks of the waves" lack antecedent basis. In claim 9, "at least partly" is an indefinite limitation on the claim. Claim 11 is awkward and unclear and fails to positively recite the structure to which applicant is seeking protection. The plate of claims 12 and 13 lack positive recitation and

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correlation. Further in claim 13, "at least partly" is an indefinite limitation on the claim. In claim 14, the "transverse link/transverse links" lack positive recitation and correlation with the combination. Further the alternativeness of claim 14 renders the metes and bounds of the claim vague and indefinite. In claim 15 the structural location of the "transverse link/transverse links" is unclear. Claim 16 is wholly unclear and indefinite as to structural location and correlation with the combination. Claim 17 is unclear in that it has not been recited as to what structure is plastic, further the recitation, "at least partly" is an indefinite limitation on the claim. In claim 18 it is unclear what "section" is being referenced. The Examiner has treated claims 1-18 but all the claims contain like deficiencies and as such should be reviewed and amended into proper claim form. Claims 29 and 30 are wholly indefinite and unclear.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 17, 19, 23-25, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 1, 378,400. EP '400 teaches in Figures 4 and 19 a cover for an energy guide chain at 40. As seen in Figure 19, the cover has two end regions with an elastic section there between.

5. Claims 1, 2, 10, 14, 15, 17, 19, 20, 22-26, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Moritz 4,672,805. Moritz teaches in Figures 4 and

5 a cover for an energy guide chain generally at 9-11. As seen in Figure 4 specifically, the cover has two end regions 10/11 with an elastic section 9 there between.

6. Claims 3-9, 11-13, 16, 18, 21, 27, and 28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

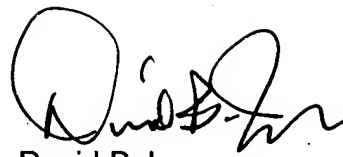
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Jones whose telephone number is 571 272 4518.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Banks Derris, can be reached at 571 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'David B Jones', written over a large, loopy initial 'D'.

David B Jones  
Primary Examiner  
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